

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of

Authorizing Permissive Use of the “Next  
Generation” Broadcast Television Standard

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) GN Docket No. 16-142  
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**REPLY COMMENTS OF ONE MEDIA, LLC**

ONE Media, LLC (“**ONE Media**”) submitted comprehensive comments addressing the great majority of the questions raised in the Commission’s Notice of Proposed Rulemaking to authorize the Next Gen Standard (“**NPRM**”).<sup>1</sup> It is notable that the vast majority of the commenters agree with ONE Media, reflecting general endorsement of the Commission’s plan to move quickly in authorizing use of ATSC 3.0 and permit needed flexibility in simulcasting arrangements. Several issues raised by some commenters, however, require response to clarify goals or refute erroneous positions. Our comments address three discrete matters: (i) the portion of the ATSC 3.0 suite of standards that should be incorporated into the rules; (ii) the use of vacant broadcast channels to accelerate the transition; and (iii) minor changes to the Distributed Transmission System (“**DTS**”) rules to facilitate improvements in service.<sup>2</sup>

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<sup>1</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Notice of Proposed Rulemaking, GN Docket No. 16-142, FCC 17-3 (rel. Feb. 24, 2017) (“**NPRM**”).

<sup>2</sup> ONE Media opposes the requests of various pay television providers that the Commission use this proceeding to intervene into the retransmission consent marketplace. However, our opening comments adequately explain why the Commission should decline to do so, and we will not further address that issue in this reply.

## DISCUSSION

### A. The Commission Should Authorize Broadcasters' to Use All Elements of the ATSC 3.0 Standard but Should Mandate Use Only of A/321

A small number of parties commented on the Commission's tentative conclusion to incorporate only ATSC A/321:2016 "System Discovery and Signaling" ("A/321") in the rules.<sup>3</sup> LG Electronics, Inc. ("LG"), for example, notes that ATSC A/322:2016 "Physical Layer Protocol" ("A/322") should also be included in the amended rules. We believe that is unnecessary. Doing so would limit the usefulness of the transmission standard and hamper broadcasters' ability to exploit the standard's potential fully without adding anything not already protected by the rules currently in force.

LG Notes that A/322 defines the emission (and by association, reception) characteristics of the entire ATSC 3.0 suite of standards and defines the interference characteristics of the 3.0 signal, ensuring a stable RF operating environment.<sup>4</sup> The essence of the argument is that, without the A/322 standard incorporated in the rules, there will be no interference guidelines as reference points. ONE Media noted in its comments, however, that the Commission's *existing* interference parameters already specify the emission envelop. A/322 is not required to support these parameters. Broadcasters must stay within the spectral footprint as currently identified and specified in A/53. The allowed limits for out-of-band digital television emissions are specified in Section 73.622(h) "Digital television table of allotments" of the rules for full-service DTV stations and in Section 74.794 for low-power stations.<sup>5</sup>

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<sup>3</sup> NPRM ¶ 5; *see, e.g.*, Comments of LG Electronics, Inc., GN Docket No. 16-142, at 4-5, 7 (filed May 9, 2017) ("**LG Comments**"); *see also* Comments of NCTA – The Internet and Television Association, GN Docket No. 16-142, at 15-16 (filed May 9, 2017) ("**NCTA Comments**").

<sup>4</sup> *See* LG Comments at 4-5, 7; *see also* NCTA Comments at 15-16.

<sup>5</sup> 47 C.F.R. §§ 73.622(h), 74.794; *see also* Section 73.687 (Transmission System Requirements) and Section 73.682(d) (Digital Broadcast Television Transmission Standard). 47 C.F.R. §§ 73.687, 73.682(d).

The existing rules, which notably will continue to apply to both ATSC 1.0 and 3.0 signals (and in fact undergird the Incentive Auction), define the emission mask and the ratios of desired to undesired signals. A/322 provides no needed enhancements to this interference criteria. Stacking A/322 on top of the existing A/53 requirements is regulatory redundancy and “gilds the regulatory lily” with no concomitant benefit, but laces the standard with unnecessary requirements, limiting dramatically the usefulness of the new standard’s capabilities. In other advanced radiocommunications services, the Commission’s technical rules support maximum innovation by specifying interference requirements rather than technical standards. To enable similar ongoing innovation in the television service, the Commission should adopt a similar approach here. Naturally, the Commission should *authorize* broadcasters to use all elements of the ATSC 3.0 suite of standards. But for the reasons explained in our opening comments, we urge the Commission to incorporate only A/321 into its rules.<sup>6</sup>

**B. The Commission Must Not Require Broadcast Stations, Which Are Primary Licensees, to Protect Unlicensed Devices That Operate Opportunistically Without Any Allocation in the Television Band**

In its initial comments, ONE Media noted that accelerating the deployment of Next Gen services may significantly ease the transition given that the Commission is not providing temporary second channels as it did with the analog to digital conversion.<sup>7</sup> Where vacant channels are available, the Commission should allow broadcasters in the applicable market to use them as dedicated transition channels to ensure maximum continuity of service. The vacant channels should be available to use in furtherance of ATSC 3.0 service as the participating broadcasters in the market see fit – either to launch ATSC 3.0 service, or to host ATSC 1.0 simulcasts. The fact that 1:1 transition channels are not feasible in this case is no reason to deny

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<sup>6</sup> Comments of ONE Media, LLC, GN Docket No. 16-142, at 3-6 (filed May 9, 2017).

<sup>7</sup> *Id.* at 13-16.

broadcasters and consumers the benefits of vacant channels to ease the transition, where those channels are available.

The Commission should give broadcasters proposing to use a vacant channel for 3.0 deployment priority over applicants for new television stations and acknowledge that such stations retain priority over displacement applications of LPTV and translator stations.<sup>8</sup> This would be a temporary priority to encourage speed of deployment based upon articulated public interest benefits including innovation, expanded services and service areas, enhanced public safety support and emergency capabilities built into the standard.<sup>9</sup> Once 3.0 deployment is completed, such “borrowed” channels could then be made available for new applicants. One of the best ways to make Next Gen deployment go as smoothly as possible is to provide access to vacant channels where available.

The WiFi Alliance,<sup>10</sup> joined in substance by Consumers Union, Public Knowledge, and the Open Technology Institute,<sup>11</sup> however, asks the Commission to complicate the transition to ATSC 3.0 significantly and materially constrain ATSC 3.0 operations in order to protect operation of unlicensed devices. The WiFi Alliance argues that the Commission should:

- “not permit the use of vacant broadcast channels for ATSC 1.0 or 3.0 transmissions;”
- “not require [TV white space] devices to protect multiple transmission streams;” and
- “prohibit broadcast operations from interfering with [white space] devices beyond the broadcast protected stream.”<sup>12</sup>

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<sup>8</sup> As licensed facilities, each full power transition station will have the same priority with respect to other services, and over all unlicensed uses, as all other licensed stations.

<sup>9</sup> Local broadcasters as a market-wide group could petition the Commission for a grant of a renewable Special Temporary Authority for use of the channel.

<sup>10</sup> Comments of the WiFi Alliance, GN Docket No. 16-142 (filed May 9, 2017) (“**WiFi Alliance Comments**”).

<sup>11</sup> Comments of Consumers Union, Public Knowledge, and New America’s Open Technology Institute, GN Docket No. 16-142, at 23-29 (filed May 9, 2017); *see also* Comments of Dynamic Spectrum Alliance, GN Docket No. 16-142, at 1-2 (filed May 9, 2017).

<sup>12</sup> WiFi Alliance Comments at 3.

These rules would turn longstanding policy on its head and are divorced from the reality of how the spectrum allocated for television broadcasting is actually used. The *television* broadcast band is allocated for the provision of *television broadcast service*. Extending *television* broadcast service to *all* communities in the country, and increasing the *number* of *television* stations serving each community, have been core national policies for over a half century. Those national policies have not been changed, and they cannot be changed in the casual, incidental way the WiFi Alliance comments suggest – as a side-issue to authorization of a new television broadcast standard.

All three of the WiFi Alliance’s requests should be rejected as inconsistent with national policy and the FCC’s rules. If broadcasters can make use of vacant channels to maintain or enhance dual-technology service during the transition to 3.0, the Commission should facilitate and encourage those uses, just as it must authorize qualified applicants to launch new full power or low power broadcast service.<sup>13</sup>

The WiFi Alliance’s request that white space devices be required to protect only a single broadcast transmission stream would enormously limit the degree to which service to the public can be enhanced through ATSC 3.0 technology. This, too, would subvert the opportunity for monumental improvements in a core service available to the American public in favor of speculative future benefits for a service that is authorized on an opportunistic-only basis that has been promised for years but which has never materialized.

The WiFi Alliance’s third request is simply ludicrous. It advocates that licensed, primary-status, operating broadcasters be required to protect unlicensed operations that are allowed to operate in the television band on a strictly opportunistic basis. That is exactly

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<sup>13</sup> Similarly, existing broadcasters cannot be prevented from extending their service areas just to protect unlicensed white space devices.

backwards. The WiFi Alliance asks the FCC to: (i) abandon decades of fundamental national policy favoring expansion of television broadcasting; (ii) cast aside the basic tenets of spectrum priority (secondary must accept interference from and cannot cause interference to primary, opportunistic unlicensed must accept interference from and cannot cause interference to licensed); and (iii) re-write the rules of opportunistic use. Each of these asks is so contrary to one or more longstanding, bedrock national policies that it should be rejected out of hand. In any case, each is far afield of the scope of issues to be addressed in this proceeding.<sup>14</sup>

The WiFi Alliance argues that assuring unlicensed access to unused broadcast channels in every area of the United States is an important national policy goal and implies that doing so is a higher priority national policy than facilitating a robust and competitive broadcast service. For this proposition, it claims authority of an open but dormant FCC proceeding in which the Commission asked whether it should refuse to accept applications for new television broadcast stations unless they show that the proposed broadcast facility would leave at least two “vacant” channels available for unlicensed use.<sup>15</sup> The WiFi Alliance’s comments imply that that proceeding established a policy of giving unlicensed/opportunistic uses priority over broadcast use of the broadcast spectrum. But an NPRM does not make rules or policy. That is particularly the case given that two commissioners pointedly dissented from the act of simply adopting the NPRM. Commissioner O’Rielly was incredulous that the Commission would even consider turning core national policies upside down:

I strongly oppose . . . asking questions in this Notice of Proposed Rulemaking (NPRM) that, if pursued, would absurdly restrict the

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<sup>14</sup> It may be appropriate for the Commission, in another proceeding, to consider whether the capabilities of ATSC 3.0 justify revisiting Section 15.712 of the Commission’s rules if white space devices are shown to interfere with ATSC 3.0 services beyond the contours specified in that section. *See* 47 C.F.R. § 15.712.

<sup>15</sup> *Amendment of Parts 15, 73 and 74 of the Commission’s Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band for Use by White Space Devices and Wireless Microphones*, Notice of Proposed Rulemaking, MB Docket No. 15-146, *et al.*, 30 FCC Rcd. 6711 (2015).

future rights of full-power television stations – the primary users in the TV band – in order to ensure that secondary, unlicensed users have priority access to six megahertz of spectrum. Doing so could put at risk all of the benefits that our nation’s broadcast stations bring to the American people. \* \* \* If such rules were adopted, it is possible that, in spectrum constrained markets, broadcasters would not be able to make future modifications or seek new stations; effectively, making full power stations secondary to unlicensed in this six megahertz. Are my colleagues really suggesting that future modifications or new full-power broadcast stations can be trumped by unlicensed services?

Simply put, secondary users should not have a superior claim over primary users for any spectrum in the TV band. This is the TV band, after all. The idea that we would even consider measures that could possibly freeze the broadcasting industry in place after the completion of the incentive auction is ludicrous.<sup>16</sup>

Then-Commissioner Pai also dissented from the proposal to give unlicensed devices priority over full power broadcast stations. He cited the “underwhelming impact of unlicensed white-space devices in the market to date” and argued the fact that broadcast stations should have priority over unlicensed in the broadcast band should be “obvious.”<sup>17</sup> Now-Chairman Pai also argued that low power and translator stations, too, should continue to enjoy priority over unlicensed devices.<sup>18</sup>

The WiFi Alliance’s proposal is even more absurd when one considers that many years after white space devices were authorized the number of actual operating unlicensed devices is extraordinarily small. Whether anyone actually relies on white space devices for any sort of ongoing service whatsoever is a reasonable question. We agree with Commissioner O’Rielly and Chairman Pai that the broadcast band should be used first and foremost to facilitate broadcast service. The Commission must maintain the absolute priority of licensed broadcast

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<sup>16</sup> *Id.*, *Statement of Commissioner Michael O’Rielly* at 1.

<sup>17</sup> *Id.*, *Dissenting Statement of Commissioner Ajit Pai* at 1.

<sup>18</sup> *Id.*

service – including all full power, low power and translator stations – over unlicensed devices in the television broadcast bands.

**C. The Commission Should Facilitate Improved Broadcast Coverage Via Single Frequency Networks**

In addition to ONE Media, only one other party, the Merrill Weiss Group (“**Weiss**”),<sup>19</sup> filed extensive comments addressing the need for flexibility in deploying single frequency networks. Like ONE Media, Weiss observes that the existing DTS rules are too restrictive to permit ATSC 3.0 SFNs to reach their full potential. Weiss urges the Commission to “require that the transmitters in a DTS network not exceed the 36 dBμ UHF Interference Contour of the DTS Reference facility so that protection of co-channel Class A stations at their 51 dBμ protected contours will be maintained.”<sup>20</sup> Weiss proposes this requirement be “in lieu of the current requirement that the [predicted noise-limited contours (“**PNLC**”)] of all transmitters in a DTS network not exceed the PNLC of the hypothetical reference facility in the network.” According to Weiss, experience shows that that requirement is highly constraining in terms of network performance and spectrum efficiency and is very expensive to implement.<sup>21</sup>

As reflected in our opening comments, we agree that the Commission should modify the DTS rules to permit greater flexibility. Weiss’ comments explain in detail why more flexibility is warranted. However, those comments appear to be focused mainly on identifying the limits necessary to protect a Class A facility whose contour falls within the interference contour of a full power station. We agree that a 36 dBμ limit is appropriate, but it should only apply in the direction of a Class A station that is entitled to protection. Limiting service in other directions would serve no purpose and would be counterproductive. Otherwise, we submit that the Weiss

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<sup>19</sup> Comments of the Merrill Weiss Group, LLC, GN Docket No. 16-142 (filed May 9, 2017) (“**Weiss Comments**”).

<sup>20</sup> Weiss Comments at 27-28.

<sup>21</sup> *Id.*



comments validate the several proposals advanced in ONE Media's comments favoring expansion of service through SFNs when doing so would not cause interference to any station entitled to protection, or when all affected stations consent.

#### **CONCLUSION**

For the reasons explained in ONE Media's opening comments, we urge the Commission to move expeditiously to approve voluntary use of ATSC 3.0 by broadcasters.

Respectfully submitted,

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